

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

In Re:

LOCAL RULES

ORDER AMENDING LOCAL RULES

The Local Rules Committee for the Eastern District of North Carolina has recommended that the local rules be amended. Proposed changes to the local rules resulting from amendment to 11 U.S.C. 1326(a)(1) which have been incorporated into Local Rule 3070-1, were distributed to the bar through the court's electronic listserv on January 23, 2006, with a request for comments to be made by February 10, 2006. The bankruptcy judges considered all of the comments to rule amendments, and pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure, the Local Rules are amended as attached.

The Local Rules shall be read in conjunction with the Administrative Guide for Practice and Procedure which is available from the Office of the Clerk of the United States Bankruptcy Court for the Eastern District of North Carolina and is maintained on the court's web site at: www.nceb.uscourts.gov. In the event of a conflict between the Local Rules and the Administrative Guide for Practice and Procedure, the Local Rules shall control.

The amended Local Rules shall be effective in cases filed on or after April 03, 2006.

SO ORDERED.

April 3, 2006

s/ J. Rich Leonard

J. Rich Leonard
Chief Judge

s/ A. Thomas Small

A. Thomas Small
Judge

Rule 3070-1

~~RETURN OF PLAN PAYMENTS TO DEBTOR~~

CHAPTER 13 - PAYMENTS

(a) RETURN OF PLAN PAYMENTS TO DEBTOR: Upon conversion or dismissal of a chapter 13 case prior to confirmation, and unless the court orders otherwise, the standing trustee shall return to the debtor any payments made by the debtor under the proposed plan, less any claim under 11 U.S.C. 503(b).

(b) ADEQUATE PROTECTION PAYMENTS TO SECURED CREDITORS AND DIRECT PAYMENTS TO LESSORS.

(1) The debtor shall pay directly to the lessor all payments scheduled in a lease of personal property for that portion of the obligation that becomes due after the order for relief.

(2) Unless the chapter 13 plan ("Plan") provides that the entire secured claim is to be paid directly by the debtor to the creditor, the debtor shall pay to a creditor, who holds an allowed claim secured by personal property to the extent that the claim is attributable to the purchase of the property by the debtor, pre-confirmation adequate protection payments through the chapter 13 trustee; however, the court may order payments to be made by any other method.

(3) The presumptive adequate protection payment to be paid pursuant to Section 1326(a)(1) shall be at least one percent (1%) of the value of the subject collateral at the discretion of the Chapter 13 trustee as of the petition date. The valuation of the collateral shall be made solely by the Chapter 13 trustee, subject to further court consideration.

(4) All adequate protection payments paid through the Chapter 13 trustee shall be subject to an administrative fee in favor of the trustee equal to the trustee's statutory percentage commission then in effect, and the trustee shall collect the fee at the time of the distribution of the adequate protection payment to the claimant.

(5) The Chapter 13 trustee shall make adequate protection payments to the creditor at the address duly noted on the proof of claim. The use of the address shall be deemed proper notice of the creditors for purpose of the adequate protection payments.

(6) The Chapter 13 trustee shall not be required to make pre-confirmation adequate protection payments on account of any claim for which the secured value of the claim is less than \$2,000.00.

(7) All adequate protection payments made through the Chapter 13 trustee shall be disbursed in the ordinary course of the trustee's business, according to the trustee's standard monthly distribution schedule, from funds in the case as they become available for distribution to claimants prior to or after entry of the Order Confirming Plan.

(8) Upon the dismissal or conversion of the Chapter 13 case to another chapter prior to confirmation, the Chapter 13 trustee shall make the pre-confirmation adequate protection payments, or portion thereof, from any funds available for that purpose received on or before the date of the entry of the order of dismissal or conversion, to creditors that have filed proofs of claim that have been deemed allowed pursuant to Section 502(a), prior to the date of the dismissal or conversion.

(9) Subsections (b)(2) and (b)(3) of this rule shall not apply if the adequate protection is provided by means other than by direct payments to the holder of the secured claim.